

Introduced by Senator Lowenthal

February 22, 2005

An act to add Chapter 9.9 (commencing with Section 44299.87) to Part 5 of Division 26 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 762, as introduced, Lowenthal. Vehicular sources: California Intermodal Port Congestion and Environmental Quality.

Existing law requires each marine terminal in the state to operate in a manner that does not cause the engines on trucks to idle for more than 30 minutes while waiting to load or unload at the terminal.

This bill would create the Los Angeles—Long Beach Area Intermodal Joint Powers Authority and the Oakland Area Intermodal Joint Powers Authority to oversee the functions of the Los Angeles—Long Beach Area Regional Intermodal Port Congestion and Environmental Quality Commission (LAIPC) and the Oakland Area Regional Intermodal Port Congestion and Environmental Quality Commission (OAIPC), respectively, which are also established by this bill.

This bill would permit the LAIPC and OAIPC to perform specified functions, including, but not limited to, granting to each motor carrier a port permit for authority to enter a specific port for pick up or delivery of intermodal freight for their truck fleet on the basis of a combined score, and determining the number of intermodal trucks needed to efficiently move intermodal freight from marine terminals to the first point of delivery, unloading, or interchange.

This bill would also make certain legislative findings and declarations relating to air pollution in port areas.

This bill would make certain findings and declarations regarding the inapplicability of a general statute without the meaning of Section 16 of Article IV of the California Constitution.

This bill would impose a state-mandated local program by imposing additional duties on specific air quality management districts,

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement shall be made pursuant to these statutory provisions for costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts may pursue any available remedies to seek reimbursement for these costs.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) Air pollution in California is an ongoing problem that
- 4 impacts the health and safety of its residents.
- 5 (2) California ocean marine terminals are congested with long
- 6 lines forcing trucks to idle for extended periods of time. Idling
- 7 trucks emit air contaminants, including oxides of nitrogen,
- 8 carbon dioxide, and particulate matter.
- 9 (3) Many of the idling trucks contain engines that are exempt
- 10 from present emission standards. The air contaminants emitted
- 11 from these trucks significantly increase pollution and
- 12 dramatically reduce air quality in the area in and around the
- 13 ports.
- 14 (4) Many marine terminals and ports in California are close to
- 15 residential areas and businesses frequented by the public. Many
- 16 port truck drivers are forced to continue to drive old and
- 17 environmentally harmful trucks because they are unable to afford
- 18 to purchase a new truck. The lines of idling trucks are so long
- 19 that many drivers wait upwards of four hours before receiving a
- 20 load, preventing them from hauling more than two loads a day,
- 21 leaving them in financial ruin.

(b) It is the intent of the Legislature to create the Los Angeles-Long Beach Area Regional Intermodal Port Congestion and Environmental Quality Commission (LAIPC) and the Oakland Area Regional Intermodal Port Congestion and Environmental Quality Commission (OAIPC) to evaluate and regulate intermodal port traffic.

(c) It is further the intent of the Legislature to establish the Los Angeles—Long Beach Area Intermodal Joint Powers Authority to oversee the functions of the LAIPC and the Oakland Area Intermodal Joint Powers Authority to oversee the functions of the OAIPC. .

SEC. 2. Chapter 9.9 (commencing with Section 44299.87) is added to Part 5 of Division 26 of the Health and Safety Code, to read:

CHAPTER 9.9. CALIFORNIA INTERMODAL PORT CONGESTION
AND ENVIRONMENTAL QUALITY

Article 1. Los Angeles—Long Beach Area Regional
Intermodal Port Congestion and Environmental Quality
Commission

44299.87. The Los Angeles—Long Beach Area Intermodal Joint Powers Authority (LAJPA), a public entity created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, and composed of the County of Los Angeles, the Cities of Los Angeles and Long Beach, and the South Coast Air Quality Management District, is hereby created for the exclusive purpose of overseeing the Los Angeles—Long Beach Area Regional Intermodal Port Congestion and Environmental Quality Commission established pursuant to this article.

44299.88. (a) (1) The Los Angeles-Long Beach Area Regional Intermodal Port Congestion and Environmental Quality Commission (LAIPC) is hereby established.

(2) The commission shall be composed of 14 members, as follows:

(A) A representative of the South Coast Air Quality Management District.

(B) A representative of the City of Long Beach.

1 (C) A representative of the City of Los Angeles.

2 (D) A representative of the Port of Long Beach.

3 (E) A representative of the Port of Los Angeles.

4 (F) A representative of the shipping line industry to be
5 nominated by the Pacific Merchant Shipping Association.

6 (G) A representative of labor representing ground
7 transportation workers to be nominated by the California State
8 Federation of Labor.

9 (H) A representative of labor representing workers inside port
10 terminals to be nominated by the California State Federation of
11 Labor.

12 (I) A representative of business that utilizes shipping services
13 in the Port of Long Beach or Port of Los Angeles to be
14 nominated by the California Retailers Association.

15 (J) A representative of the trucking industry to be nominated
16 by the California Trucking Association.

17 (K) A representative of an environmental organization that
18 has, as a major focus, air quality issues to be nominated by ____.

19 (L) A representative of a community group from a community
20 adjacent to the Port of Long Beach or the Port of Los Angeles to
21 be nominated by ____.

22 (M) A member of the Los Angeles County Board of
23 Supervisors.

24 (N) The Secretary of the Business, Transportation and
25 Housing Agency or his or her designee, as an ex officio member.

26 (b) Except for the initial appointments to the LAIPC, each
27 commission member, other than the ex-officio member identified
28 in subparagraph (N) of paragraph (2) of subdivision (a), or his or
29 her designee, shall serve a four-year term, to be staggered so that
30 approximately one-third of the appointments expire in each year.
31 A person may not be appointed to serve more than two
32 consecutive terms. The LAJPA shall appoint the initial members
33 of the commission.

34 (c) In carrying out its duties and responsibilities the LAIPC
35 may do all of the following:

36 (1) Meet at least once each quarter.

37 (2) Employ staff, including any clerical, legal, and technical
38 assistance as may appear necessary.

39 (3) Establish advisory committees.

1 (4) Employ all other appropriate strategies necessary or
2 convenient to enable it to fully and adequately perform its duties
3 and exercise the powers expressly granted.

4 (d) The LAIPC shall develop and adopt member rules relating
5 to conflicts of interest.

6 (e) The LAIPC shall be funded by port permit fees imposed
7 upon motor carriers consistent with this article.

8 44299.89. (a) The LAIPC shall determine the number of
9 intermodal truck trips that pass through the Port of Long Beach
10 and the Port of Los Angeles on an average daily basis and the
11 number of intermodal trucks needed to efficiently move
12 intermodal freight from marine terminals to the first point of
13 delivery, unloading, or interchange.

14 (b) The LAIPC shall ascertain the number of drivers necessary
15 to make at least three round trips to and from the port. The
16 LAIPC shall grant port permit authority consistent with
17 subdivision (a) of Section 44299.90 so that the total number of
18 trucks delivering intermodal freight to and from the port shall not
19 exceed the number necessary for each truck to make at least three
20 round trips to and from the port.

21 (c) The LAIPC shall develop a system to ensure that there are
22 a sufficient number of trucks to meet short term or peak demand.
23 The LAIPC shall establish a system, consistent with
24 environmental goals, to permit the transfer of vehicles or drivers
25 between authorized motor carriers and the updating of fleets
26 when new vehicles come into service or leave service.

27 44299.90. (a) Except as provided by subdivision (d), and
28 consistent with requirements of Section 44299.89, the LAIPC
29 shall grant to each motor carrier qualified under subdivision (b) a
30 port permit for authority to enter a specific port to pick up or
31 deliver intermodal freight for its truck fleet until the total fleet
32 size determined pursuant to Section 44299.89 is reached. Each
33 motor carrier shall be required to make an application for a port
34 permit pursuant to this section on behalf of any employee driver
35 or owner-operator, whether the owner-operator operates under
36 his or her own operating authority or operates as a subhauler
37 under the operating authority of an overlying motor carrier. A
38 motor carrier shall not require, as a condition of employment or
39 dispatch, that an employee driver or owner-operator driver

operating under the operating authority of the motor carrier pay for any portion of the cost of the port permit.

(b) The LAIPC shall grant a port permit to a motor carrier on the basis of a combined score derived from the following factors:

(1) The motor carrier's seniority of service in regularly delivering intermodal freight to and from the particular port.

(2) Satisfactory ratings on a biennial inspection of terminal report.

(3) The age of the motor carrier's fleet.

(4) Proof of adequate insurance, as established by the commission.

(5) Any other criteria the LAIPC shall establish.

(c) A port permit shall not be issued to a motor carrier if its fleet contains more than ____ percent of truck tractors older than the 1994 model year.

(d) Where casual drivers are needed to fulfill short term or peak demand, those drivers may be dispatched from a hiring hall.

(e) Each motor carrier issued a port permit shall pay an annual fee of ____ dollars (\$ ____), to be used to fund the LAIPC.

(f) A port permit shall be renewed every ____ years.

44299.91. Each truck dispatched from a motor carrier that has been issued a port permit shall display an identification sticker authorizing the truck to enter the port. No truck may pick up or deliver freight at a particular port if that truck is not part of the fleet of a motor carrier that possesses a permit for that port.

44299.92. (a) The LAIPC may establish rules and regulations as necessary to implement the provisions of this article. The LAIPC shall also establish fleet emissions rules and regulations for trucks operating in and out of ports to reduce air emissions caused by the idling or queuing of trucks.

(b) For the purposes of this article, "motor carrier" means both a motor carrier for hire and a proprietary motor carrier.

Article 2. Oakland Area Regional Intermodal Port Congestion and Environmental Quality Commission

44299.93. The Oakland Area Intermodal Joint Powers Authority (OAJPA), a public entity created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, and composed of the County of

1 Alameda, the City of Oakland, and the Bay Area Air Quality
2 Management District, is hereby created for the exclusive purpose
3 of overseeing the Oakland Area Regional Intermodal Port
4 Congestion and Environmental Quality Commission established
5 pursuant to this article.

6 44299.94. (a) (1) The Oakland Area Regional Intermodal
7 Port Congestion and Environmental Quality Commission
8 (OAIPC) is hereby established.

9 (2) The commission shall be composed of 12 members, as
10 follows:

11 (A) A representative of the Bay Area Air Quality Management
12 District.

13 (B) A representative of the City of Oakland.

14 (C) A representative of the Port of Oakland.

15 (D) A representative of the Alameda County Board of
16 Supervisors.

17 (E) A representative of the shipping line industry to be
18 nominated by the Pacific Merchant Shipping Association.

19 (F) A representative of labor representing ground
20 transportation workers to be nominated by the California State
21 Federation of Labor.

22 (G) A representative of labor representing workers inside port
23 terminals to be nominated by the California State Federation of
24 Labor.

25 (H) A representative of business that utilizes shipping services
26 in the Port of Oakland to be nominated by the California
27 Retailers Association.

28 (I) A representative of the trucking industry to be nominated
29 by the California Trucking Association.

30 (K) A representative of an environmental organization that
31 has, as a major focus, air quality issues to be nominated by
32 ____.

33 (L) A representative of a community group from a community
34 adjacent to the Port of Oakland to be nominated by ____.

35 (M) The Secretary of the Business, Transportation and
36 Housing Agency or his or her designee, as an ex officio member.

37 (b) Except for the initial appointments to the OAIPC, each
38 commission member, other than the ex-officio member identified
39 in subparagraph (M) of paragraph (2) of subdivision (a), or his or
40 her designee, shall serve a four-year term, to be staggered so that

1 approximately one-third of the appointments expire in each year.
2 A person may not be appointed to serve more than two
3 consecutive terms. The OAJPA shall appoint the initial members
4 of the committee.

5 (c) In carrying out its duties and responsibilities the OAIPC
6 may do all of the following:

7 (1) Meet at least once each quarter.

8 (2) Employ staff, including any clerical, legal, and technical
9 assistance as may appear necessary.

10 (3) Establish advisory committees.

11 (4) Employ all other appropriate strategies necessary or
12 convenient to enable it to fully and adequately perform its duties
13 and exercise the powers expressly granted.

14 (d) The OAIPC shall develop and adopt member rules relating
15 to conflicts of interest.

16 (e) The OAIPC shall be funded by port permit fees imposed
17 upon motor carriers consistent with this article.

18 44299.95. (a) The OAIPC shall determine the number of
19 intermodal truck trips that pass through the Port of Oakland on an
20 average daily basis and the number of intermodal trucks needed
21 to efficiently move intermodal freight from marine terminals to
22 the first point of delivery, unloading, or interchange.

23 (b) The OAIPC shall ascertain the number of drivers necessary
24 to make at least three round trips to and from the port. The
25 OAIPC shall grant port permit authority consistent with
26 subdivision (a) of Section 44299.96 so that the total number of
27 trucks delivering intermodal freight to and from the port shall not
28 exceed the number necessary for each truck to make at least three
29 round trips to and from the port.

30 (c) The OAIPC shall develop a system to ensure that there are
31 a sufficient number of trucks to meet short term or peak demand.
32 The OAIPC shall establish a system, consistent with
33 environmental goals, to permit the transfer of vehicles or drivers
34 between authorized motor carriers and the updating of fleets
35 when new vehicles come into service or leave service.

36 44299.96. (a) Except as provided by subdivision (d), and
37 consistent with requirements of Section 44299.95, the OAIPC
38 shall grant to each motor carrier qualified under subdivision (b) a
39 port permit for authority to enter a specific port to pick up or
40 deliver intermodal freight for its truck fleet until the total fleet

1 size determined pursuant to Section 44299.95 is reached. Each
2 motor carrier shall be required to make an application for a port
3 permit pursuant to this section on behalf of any employee driver
4 or owner-operator, whether the owner-operator operates under
5 his or her own operating authority or operates as a subhauler
6 under the operating authority of an overlying motor carrier. A
7 motor carrier shall not require, as a condition of employment or
8 dispatch, that an employee driver or owner-operator driver
9 operating under the operating authority of the motor carrier pay
10 for any portion of the cost of the port permit.

11 (b) The OAIPC shall grant a port permit to a motor carrier on
12 the basis of a combined score derived from the following factors:

13 (1) The motor carrier's seniority of service in regularly
14 delivering intermodal freight to and from the particular port.

15 (2) Satisfactory ratings on a biennial inspection of terminal
16 report.

17 (3) The age of the motor carrier's fleet.

18 (4) Proof of adequate insurance, as established by the
19 commission.

20 (5) Any other criteria the OAIPC shall be establish.

21 (c) A port permit shall not be issued to a motor carrier if its
22 fleet contains more than ____ percent of truck tractors older than
23 the 1994 model year.

24 (d) Where casual drivers are needed to fulfill short term or
25 peak demand, those drivers may be dispatched from a hiring hall.

26 (e) Each motor carrier issued a port permit shall pay an annual
27 fee of ____ dollars (\$____), to be used to fund the OAIPC.

28 (f) A port permit shall be renewed every ____ years.

29 44299.97. Each truck dispatched from a motor carrier that has
30 been issued a port permit shall display an identification sticker
31 authorizing the truck to enter the port. No truck may pick up or
32 deliver freight at a particular port if that truck is not part of the
33 fleet of a motor carrier that possesses a permit for that port.

34 44299.98. (a) The OAIPC may establish rules and regulations
35 as necessary to implement the provisions of this article. The
36 OAIPC shall also establish fleet emissions rules and regulations
37 for trucks operating in and out of ports to reduce air emissions
38 caused by the idling or queuing of trucks.

39 (b) For the purposes of this article, "motor carrier" means both
40 a motor carrier for hire and a proprietary motor carrier.

1 SEC. 3. The Legislature finds and declares that, due to the
2 unique circumstances relating to air quality in the communities
3 surrounding the Port of Los Angeles, the Port of Long Beach,
4 and the Port of Oakland, a statute of general applicability cannot
5 be enacted within the meaning of subdivision (b) of Section 16 of
6 Article IV of the California Constitution.

7 SEC. 4. No reimbursement shall be made pursuant to Part 7
8 (commencing with Section 17500) of Division 4 of Title 2 of the
9 Government Code for costs mandated by the state pursuant to
10 this act. It is recognized, however, that a local agency or school
11 district may pursue any remedies to obtain reimbursement
12 available to it under Part 7 (commencing with Section 17500)
13 and any other provisions of law.